

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION**

**STATES OF WEST VIRGINIA,
NORTH DAKOTA, GEORGIA, and
IOWA, *et al.*,**

Plaintiffs,

v.

**U.S. ENVIRONMENTAL
PROTECTION AGENCY, *et al.*,**

Defendants.

Case No. 3:23-cv-00032-DLH-ARS

Hon. Daniel L. Hovland

PLAINTIFF STATES' REPLY IN SUPPORT OF MOTION FOR ORAL ARGUMENT

Defendants do not oppose the Plaintiff States' request for oral argument. *See* ECF 84 at 1. And the Plaintiff States are fine with Defendants' secondary suggestion that any argument happen on March 17, 2023. *See id.* at 1-2. As far as the States are concerned, if the Court concludes that oral argument would be helpful, then any argument date before the Final Rule becomes effective on March 20 would be good. A hearing before then would allow the Court to decide the States' motion "before the alleged serious harm occurs from the final rule taking effect." ECF 90 at 2.

But the Court should not delay argument indefinitely if the Court grants the Proposed Intervenor's motion to intervene, as Defendants request. *See* ECF 84 at 1. The States recently opposed Defendants' request to extend the briefing schedule for many of the same reasons that justify setting any oral argument right away: (1) the Final Rule—now just one week from taking effect, *see* 88 Fed. Reg. 3004—is set to deal a significant blow to the States and their residents, *see* ECF 85 at 1-2; (2) Defendants cannot use a motion to intervene to prejudice the States' ability

to be heard, *see id.* at 2-3; and (3) a joint oral argument would not be a more efficient use of the Court's time, *see id.* at 3-4. The Court was right to reject the indefinite briefing extension Defendants requested earlier. It would be right to eliminate any chance of an indefinitely delayed oral argument, too.

Dated: March 13, 2023

Respectfully submitted.

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